

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CR 05-1849 JH

DANA JARVIS, *et al.*,

Defendant.

**DEFENDANT DANA JARVIS' RESPONSE TO THE UNITED STATES'
AMENDED MOTION TO DISMISS [DOC. 1611]**

COMES NOW the Defendant, Dana Jarvis, by and through his counsel of record, hereby responding to the United States' Amended Motion to Dismiss. Mr. Jarvis responds as follows:

1. The Amended Motion to Dismiss, like the original Motion to Dismiss, was filed by the United States without notice and request for a position from Mr. Jarvis.

2. With this second unnoticed filing, the Government requests a briefing schedule or an alternative remedy of entry of a dismissal without specifying with or without prejudice. Doc. 1611 (request in prayer at p. 2).

3. Mr. Jarvis rejects the second compromise resolution suggested by the United States.

4. Mr. Jarvis concurs in the Government's request to withdraw the

previously-entered order of dismissal (Doc. 1602) and allow briefing. Mr. Jarvis requests the briefing schedule commence with his filing date of on or before May 15, 2009 for his Motion and Memorandum in Support to Enforce the Plea Agreement.

Respectfully submitted:

I hereby certify that a true copy of this pleading was sent to AUSA James Braun via electronic filing and e-mail on this 24th day of April, 2009.

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Judith A. Rosenstein

JUDITH A. ROSENSTEIN
P.O. Box 25622
Albuquerque, NM 87125-5622
(505) 379-1289 (telephone)
(505) 797-8086 (facsimile)
jrosenstein7@cybermesa.com

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Judith A. Rosenstein
Attorney for Defendant

JODY NEAL-POST
Attorney for Defendant
317 Amherst Dr. SE
Albuquerque, NM 87106-1403
(505) 268-7263 (telephone)
(505) 255-2782 (facsimile)

GARY C. MITCHELL
Attorney for Defendant
P.O. Box 2460
Ruidoso, NM 88355-2460
(575) 257-3070 (telephone)
(575) 257-3171 (facsimile)

